

**STATE OF UTAH  
DIVISION OF WATER QUALITY  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
SALT LAKE CITY, UTAH**

**§401 Water Quality Certification No. DWQ-2018-12001**

Pursuant to §401 of the *Federal Clean Water Act*(CWA), the Utah Department of Environmental Quality (DEQ), Division of Water Quality (DWQ) certifies that the applicant has provided reasonable assurance that any discharges associated with the proposed project will not violate surface water quality standards, or cause additional degradation in surface water not presently meeting water quality standards. In accordance with Section 401(a)(1) of the CWA [33 U.S.C. Sec. 1341(a)(1)], DWQ hereby issues this §401 Water Quality Certification provided any listed conditions are met and included in the corresponding Federal Energy Regulatory Commission (FERC) license.

**Applicant:** PacifiCorp  
Mr. Todd Olsen  
825 Multnomah, Suite 1800  
Portland, OR 97232

**Project:** The applicant is in the process of renewing their Major Federal Energy Regulatory Commission (FERC) license for the existing 3.85-megawatt Weber Hydroelectric Project (FERC No. 1744) on the Weber River in Weber, Morgan, and Davis Counties, Utah. The existing project is operated for the sole purpose of electrical generation and consists of a concrete diversion dam, two radial gates, and an intake structure, a steel pipeline partially encased in concrete, an historic and non-operational fish passage structure, and a powerhouse. The renewal will include the construction of a fish ladder on the north side of the spillway immediately adjacent to the historic fish passage flume where minimum flow is released. The proposed layout of the upstream fish passage facility will not affect the existing historic fish passage flume and minimum flow gate.

**Location:** The project site is located approximately 10 miles southeast of Ogden, Utah in the Weber River off the I-84. Latitude 41.138821, Longitude -111.852335.

**Watercourse(s):** Weber River (UT16020102), Weber River Watershed

**Effective Date:** April X, 2019

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Erica Brown Gaddis, PhD  
Director, Division Water Quality

## Table of Contents

### Section 1: Background

I.	Other Applicable Permits .....	Pg. 3
II.	Project Description/ Purpose .....	Pg. 3
III.	Site Description .....	Pg. 3
IV.	Basis of Certification Decision .....	Pg. 3

### Section 2: Certification Conditions

I.	Project Specific Conditions .....	Pg. 4
II.	General Conditions .....	Pg. 5-6

### Sections 3: Aquatic Resource Impacts

I.	Impacts to Linear Features .....	Pg. 7
----	----------------------------------	-------

### Section 4: Modifications .....

Pg. 7

### Section 5: Other Information

I.	Fees .....	Pg. 7
II.	Liability .....	Pg. 7

### Section 6: Public Notice and Comments Received

I.	Public Notice Dates.....	Pg. 7
II.	Public Notice Comments .....	Pg. 7

### Appendix A: Site Location Maps

- i. Project Location/ Features

### Appendix B: Site Plan

- i. Existing Site Plan

### Appendix C: Conceptual Design of Preferred Alternative

- i. Fish Passage/ Ladder

## **Section 1: Background:**

### **I. Other Applicable Permits:**

#### **1. FERC No. 1744**

### **II. Project Description/Purpose:**

The applicant is in the process of renewing their Major Federal Energy Regulatory Commission (FERC) license for the existing 3.85-megawatt Weber Hydroelectric Project (FERC No. 1744) on the Weber River in Weber, Morgan, and Davis Counties, Utah. The existing project is operated for the sole purpose of electrical generation and consists of a concrete diversion dam, two radial gates, and an intake structure, a steel pipeline partially encased in concrete, an historic and non-operational fish passage structure, and a powerhouse. The renewal will include the construction of a fish ladder on the north side of the spillway immediately adjacent to the historic fish passage flume where minimum flow is released. The proposed layout of the upstream fish passage facility will not affect the existing historic fish passage flume and minimum flow gate.

### **III. Site Description:**

The Project is located in the northern portion of the State of Utah in a small area of Weber, Morgan, and Davis counties, approximately nine miles from the City of Ogden on the Weber River. The Project is partially located on lands managed by the Uinta-Wasatch-Cache National Forest, and partially on lands owned by the Union Pacific Railroad Company. There are no Tribal reservations in the Federal Energy Regulatory Commission (FERC) Project Boundary. The U.S. Department of Agriculture Forest Service (USFS) manages approximately 15 acres within the proposed Project Boundary.

### **IV. Basis of Certification Decision:**

PacifiCorp is seeking a new FERC licensee through an Alternative Licensing Process (ALP). They initiated the process by submitting an NOI and Pre-Application Document to FERC in May 2015. Since that time they have worked with a diverse group of stakeholders from Federal, State, Local, and non-governmental organizations, that had varying interests, including impacts to hydrology, water quality, biological and wildlife resources, cultural resources, and recreation. As PacifiCorp developed technical reports they consulted with the stakeholder group for comments and concerns. Since the application process solicited open communication, concerns were addressed as project details were finalized. PacifiCorp worked with DWR to identify four sampling locations to collect temperature, pH, conductivity, and DO, turbidity, TSS, and Chlorophyll a data. The sampling results revealed that it is unlikely that the re-licensing project would have notable impacts to water quality. The conditions outlined in this certification would address any concerns related to possible water quality impacts.

**Section 2: Certification Conditions:** The Federal Energy Regulatory Commission (FERC) is requested to include all of the conditions of this §401 Water Quality Certification with Conditions in the FERC license renewal. Approval is hereby given to conduct the outlined project requests as described in the Certification Application, under the following conditions:

I. Project Specific Conditions:

1. Fish Ladder

- a. PacifiCorp will construct and operate a fish ladder suitable for upstream passage of both Bonneville Cutthroat Trout (*Oncorhynchus clarki*) and the Bluehead Sucker (*Catostomus discobolus*). The design should include a fish trap.
- b. Work on the Fish Ladder should not be conducted from February to June to allow for the movement and spawning of the Bonneville Cutthroat Trout and the Bluehead Sucker, which are both special status aquatic species.
- c. During/after construction of the fish ladder PacifiCorp should continue to coordinate with project stakeholders, for work related to, but not limited to, channel dewatering, fish salvage, and fish trap operation and maintenance.

2. Flow Requirements

- a. Previous Stream flow requirements should remain. A minimum stream flow of 34 cfs or inflow, whichever is less from October 1 to March 31 annually, and a continuous minimum flow of 34-54 cfs (dependent on annual runoff forecast), or inflow, whichever is less from April 1 – September 30.
- b. Once the fish ladder is installed a portion of the required minimum flow (approx. 20 cfs) should be passed through the fish ladder and the rest (approx. 14-30 cfs) should be used as attraction flow.

3. Best Management Practices (BMPs)

- a. Construction of the fish ladder should be accomplished during a period of low flow. Sediment discharges into stream flows during construction must be controlled to prevent increases in turbidity downstream. Flows must be diverted away from the construction area using a non-erodible cofferdam or other means of bypass.
- b. Prior to the start of the project either (1) an area within the project boundary will be identified to store the excavated material from the constructed fish ladder, a minimum 50 feet from the Weber River and protected using proper BMPs to prevent discharges into Waters of the State or (2) a plan will be made to transport the excavated material offsite for storage in an upland location or disposal.

## II. General Conditions:

### 1. Good Housekeeping

- a. Applicant and their subcontractors shall ensure that all workers involved are continuously aware of the water quality protection measures before the start and during the construction period.
- b. Retain a copy of this §401 Certification onsite, during fish ladder construction.

### 2. Stormwater and BMPs

- a. Water quality standards in associated water resources could be violated unless appropriate Best Management Practices (BMPs) are incorporated to minimize the erosion-sediment and nutrient load to any adjacent waters during project construction. The applicant shall not use any fill material which may leach organic chemicals (e.g. discarded asphalt), noxious weeds/seeds or nutrients (e.g., phosphate rock) into waters of the State.
- b. Construction activities that disturb one acre or more, or are part of a common plan of development, are required to obtain coverage under the Utah Pollutant Discharge Elimination System (UPDES) Stormwater General Permit for Construction Activities, Permit No. UTR300000<sup>[1]</sup>. The permit requires the development of a Storm Water Pollution Prevention Plan (SWPPP) to be implemented and updated from the commencement of any soil disturbing activities at the site, until final stabilization of the project. The SWPPP should include, but not limited to, final site maps and legible plans, location of stormwater outfalls/discharges, as well as information pertaining to any stormwater retention requirements.
- c. Dewatering activities, if necessary during construction, may require coverage under the UPDES General Permit for Construction Dewatering, Permit No. UTG070000<sup>[2]</sup>. The permit requires water quality monitoring every two weeks to ensure that the pumped water is meeting permit effluent limitations, unless water is contained onsite.
- d. A project within a Municipal Separate Storm Sewer System (MS4) jurisdiction, must comply with all the conditions required in that UPDES MS4 Permit and associated ordinances. No condition of this 401 Certification shall reduce or minimize any requirements provided in the MS4 Permit. In the case of conflicting requirements, the most stringent criteria shall apply.

### 3. Spills

- a. Refueling equipment and storage of lubricants and fuels will occur at designated staging areas and in state approved containers. The storage and refueling areas will be at least 500 feet from the edge of the nearest waterbody (including wetlands), at least 200 feet from the nearest private water supply well, and at least 100 feet from the nearest municipal water supply well.
- b. Utah Annotated Code 19-5-114 requires that any spill or discharge of oil or other substances which may cause pollution to waters of the State, including wetlands, must be immediately reported to the Utah DEQ Spill Hotline at (801) 536-4123, a 24-hour phone number.

**Section 3: Aquatic Resource Impacts:** All Waters of the State of Utah (defined in Administrative Code (UAC) R317-1-1) are protected from pollutant discharges that affect water quality by narrative standards (see UAC R317-2-7.2); broadly, discharges should not become offensive or cause undesirable conditions in human health effects of aquatic life. In addition, some particularly sensitive classes of water are further protected from deleterious effects of specific pollutants by application of numeric criteria to designated (beneficial) uses of that water body. Listed below are the water features within the project area and their associated designated beneficial uses (see UAC R317-2-6):

#### I. Impacts to Linear Water Features:

1. Streams/Rivers: Weber River, Weber River Watershed
  - a. Class 2B: Protected for infrequent primary contact recreation. Also protected for secondary contact recreation where there is low likelihood of ingestion of water or low degree of bodily contact with the water.
  - b. Class 3A: Protected for cold water species of game fish and other warm water aquatic life, including the necessary aquatic organisms for their food chain.
  - c. Class 4: Protected for agricultural uses including irrigation of crops and stock watering.

Results of the current water quality assessment, as documented in Utah's 2016 Integrated Report<sup>[3]</sup>, indicate that Weber River is considered to be impaired (Assessment Category 5). These features are impaired due to a lack of available aquatic habitat, which has impacted cold water aquatic life (Class 3A).

#### **Section 4: Modifications:**

1. Without limiting DWQ's discretion to take other actions in accordance with UAC R317-15, and, as applicable, 33 USC 1341, DWQ may modify the Certification to add, delete, or modify the conditions in this Certification as necessary and feasible to address:
  - a. Adverse or potential adverse project effects on water quality of designated beneficial uses that did not exist or were not reasonably apparent when this certification was issued;
  - b. TMDLs;
  - c. Changes in water quality standards;
  - d. Any failure of Certification conditions to protect water quality or designated uses when the Certification was issued; or
  - e. Any change in the Project or its operations that will adversely affect water quality of designated beneficial uses when this Certification was issued.

#### **Section 5: Other Information**

- I. Fees:
  1. The legislatively-mandated fee for the 2019 fiscal year is \$100.00/hour, for review and issuance of the §401 Water Quality Certification [4]. A quarterly invoice will be sent once plans have been approved. Your payment is due within 30 days.
- II. Liabilities:
  1. Applicant must acquire all necessary easements, access authorizations and permits to ensure they are able to implement the project. This §401 Certification does not convey any property rights or exclusive privileges, nor does it authorize access or injury to private property.
  2. This §401 Certification does not preclude the applicant's responsibility of complying with all applicable Federal, State or local laws, regulations or ordinances, including water quality standards. Permit coverage does not release the applicant from any liability or penalty, should violations to the permit terms and conditions or Federal or State Laws occur.

#### **Section 6: Public Notice and Comments**

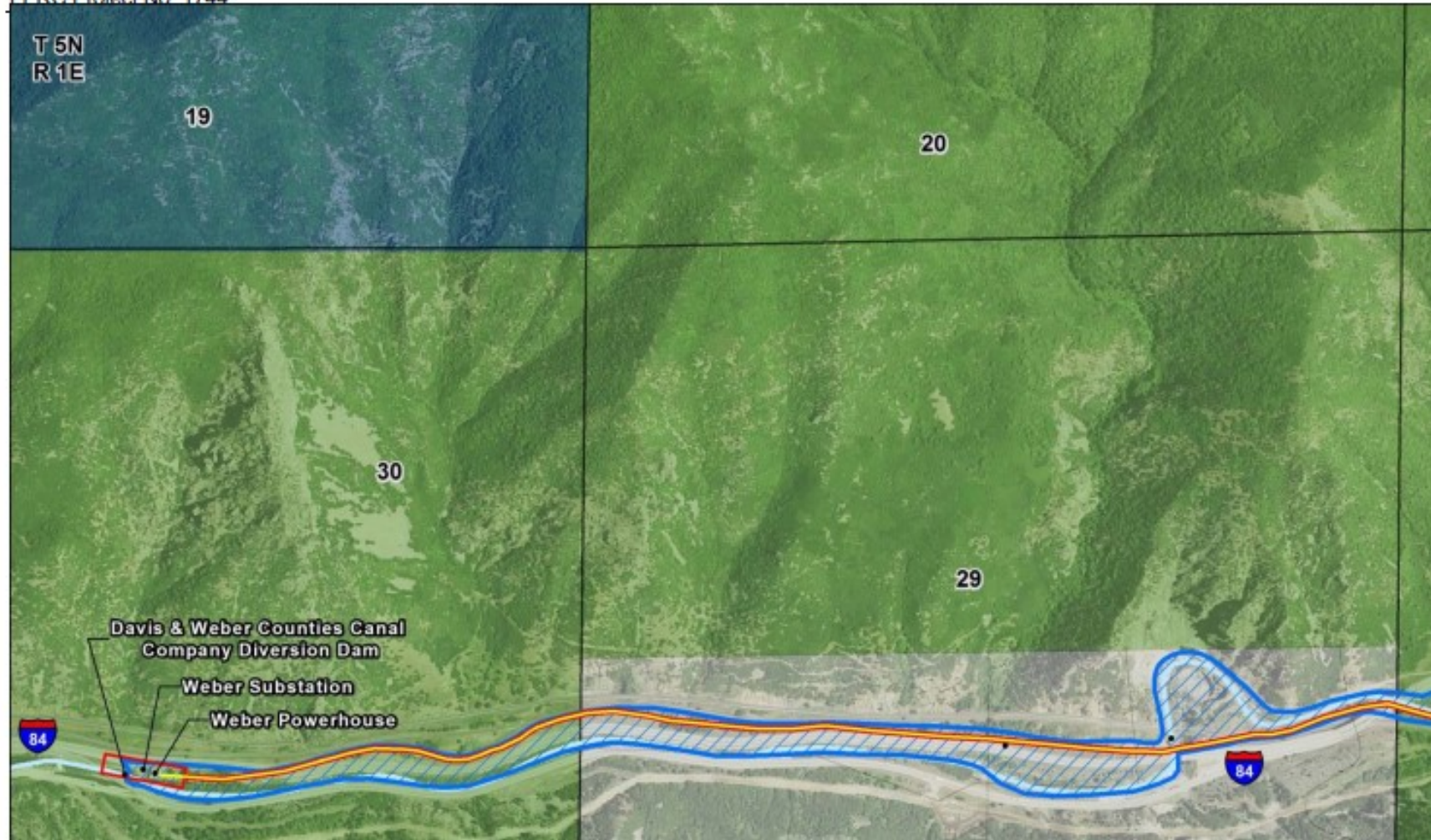
- I. Public Notice Dates:
  1. Utah DEQ Certification No. DWQ-2018-00256: xx/xx/xxxx- xx/xx/xxxx
- II. Public Notice Comments:

## **Appendix A: Project Location**

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FERC Project No. 1744



## **Appendix B: Site Plan**

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## **Appendix C: Conceptual Design of Preferred Alternative (Fish Ladder)**

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